THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 20206 of 1997

04-04-2007

Between:-

Dr. G. Prabhakar

Petitioner

And

The Registrar, Osmania University, A.P.,
Hyderabad and two others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 20206 of 1997

Oral order:

By the impugned proceedings dated 23-08-1997 issued by the first respondent, the appointment of the petitioner as lecturer in Geology was intimated to have been cancelled by the Vice-Chancellor on the ground that the appointment was illegal and contrary to the University Grants Commission (for short 'the UGC') Guidelines. The order states that the petitioner, a candidate belonging to B.C-B category, possessed the qualification of M.Sc., Ph.D., and had applied for the post of Lecturer in Geology responding to the advertisement 3/96 dated 25-03-1996 and was called for interview on 31-07-1997. The University sought a clarification from the UGC regarding

exemption from possession of a National Eligibility Test Certificate in respect of the candidates who were awarded Ph.D., degree after
31-12-1993. The UGC by its letter dated 06-08-1997 received on
16-08-1997 clarified that the candidates who had acquired Ph.D., after 31-12-1993 are required to pass the NET/SLET for appointment to the post of Lecturer in the scale of
pay of Rs.2200-4000 and there can be no exemption for those candidates. According to the impugned order, the petitioner was appointed by over sight as a Lecturer in Geology by the order dated 18-08-1997 though he obtained Ph.D., on 31-12-1995 and had not passed the NET/SLET.

In the writ petition, the petitioner contends *inter alia* that the order of termination was issued without notice or opportunity to him. He was not in error. He had faithfully informed the University as to his qualifications and the date he acquired his Ph.D., In the circumstances, contends the petitioner, he was entitled to notice and opportunity before an order of termination of his regular appointment is passed.

On 16-10-1997 in W.P.M.P.No. 24511 of 1997 this court granted interim suspension of the impugned order terminating the petitioner from service. The respondent-University filed W.V.M.P.No. 3186 of 1997 seeking

vacation of the order of interim suspension. By an order dated 16-09-1999 this Court rejected the application of the University seeking vacation of the interim order and the interim order was made absolute. Since the order terminating the petitioner from service is suspended by this court on 16-10-1997, the petitioner was entitled to continue in service, since the order of termination had gone into plenary eclipse. It is represented by the learned counsel for the respective parties that the respondent-University had however permitted the petitioner to resume duties only with effect from 18-09-2003. For all these years, the respondent-University in utter defiance of the order of this Court had failed to implement the interim order of suspension. Be that as it may.

The first respondent has filed a counter affidavit. In the counter affidavit it is stated that the Executive Council of the University after an “in depth” examination of the matter, cancelled the appointment of the petitioner i.e., it ratified the action of the Vice Chancellor ordering cancellation of the order of appointment. According to the University, since the petitioner obtained Ph.D., degree after

31-12-1993, he was not qualified to be appointed to the post of a Lecturer without possessing the qualification of NET/SLET.

In paragraph No.8 of the counter affidavit, the respondent-University states that principles of natural

justice are not applicable and that appointment of an unqualified candidate may be cancelled at any point of time. As the UGC had clarified that persons who acquired Ph.D., degree after 31-12-1993 are required to possess NET/SLET certificate for appointment to the post of Lecturer in the pay scale of Rs.,2200-4000, the petitioner being unqualified was not entitled to be appointed, but was appointed by the University on a mistaken impression that he was qualified, is the stand of the respondents.

The learned counsel for the petitioner would contend that the UGC had clarified that even after 31-12-1993 persons who have a Ph.D., degree could be appointed to the post of a Lecturer even without possession of NET/SLET subject to a condition that the candidate should clear the NET/SLET within two years of such appointment. According to the petitioner, had he been issued a notice and afforded an opportunity sensitizing about this circular and clarification by the UGC, he would have taken steps to obtain the qualification within time.

In the context of the fact that the respondent has issued the impugned order of termination of the permanent appointment to the post of Lecturer in Geology, without notice and opportunity and therefore unlawfully, it is not necessary to go into the other issue as to whether the petitioner's appointment was not *per se* illegal in view of the clarification issued by the UGC on 06-

08-1997.

On the analysis above, the impugned order is quashed. The writ petition is allowed. The respondent-University is however at liberty, if it so chooses, to issue a notice to the petitioner proposing termination of his service and soliciting his objections to such proposal. The University also at liberty to take a final decision after considering the objections, if any submitted by the petitioner. There shall be no order as to costs.

GODA RAGHURAM, J

Dated:04-04-2007
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